



REPORTING REQUIREMENTS FOR INDEPENDENT EXPENDITURES: HOUSE DISTRICT 24 SPECIAL ELECTION

These instructions are intended to provide information about how to report independent expenditures. For detailed information about making independent expenditures, including information on express advocacy, special requirements if a Maine Clean Election Act candidate is affected by an independent expenditure, membership communications, and other topics, please contact the Commission staff at (207) 287-4179. The statute and rules governing independent expenditures are 21-A M.R.S.A. § 1019-B and Commission Rules, Chapter 1, Section 10 (94-270 CMR Chapter 1, Section 10).

Important statutory changes have been made regarding reporting requirements for Independent Expenditures. See page three of the instructions.

WHEN DO INDEPENDENT EXPENDITURES HAVE TO BE REPORTED?

It is important to note that it is the total or aggregate amount spent per candidate for the election that matters in determining whether an independent expenditure has to be reported, not simply the amount of a single expenditure. When an independent expenditure report has to be filed depends on the amount and the timing of the expenditure.

Independent expenditures aggregating:

- \$250 or more due within 2 calendar days of making the expenditure sixty days prior to the election. (September 9, 2011)
- more than \$100 per candidate but not more than \$250 made on or before October 25, 2011 must be reported in the 14-Day Pre-Election Report due by 5:00 p.m. on October 25, 2011.
- more than \$100 per candidate made on or after October 26, 2011 must be reported within 1 calendar day of exceeding the \$100 threshold (each time the \$100 threshold is exceeded, a report must be filed within 1 calendar day)

An independent expenditure report filed after October 31, 2011 is required to include additional information on Schedule B-IE-3 of the report.

WHAT ARE THE SPECIAL REQUIREMENTS IF A MAINE CLEAN ELECTION ACT CANDIDATE IS IN THE RACE?

If you disseminate a communication that names or depicts a clearly identified candidate during a special election until and on election day and there is a Maine Clean Election Act candidate in the race, any expenditure made for the design, production, or dissemination of the communication will be presumed to be an independent expenditure. This presumption applies even if the communication does not expressly advocate for the election or defeat of a candidate. .

WHAT IS THE TIME PERIOD DURING WHICH THE PRESUMPTION APPLIES?

The presumption period applies to communications that name or depict a clearly identified candidate that are disseminated during a special election until and on election day.

DOES THE PRESUMPTION EVER APPLY TO EXPENDITURES THAT ARE MADE BEFORE THE PRESUMPTION PERIOD BEGINS?

Yes. If the expenditure to design, produce or disseminate the communication is made before the presumption period and the communication itself is disseminated or is intended to be disseminated within the presumption period, the expenditure is presumed to be an independent expenditure and must be reported.

IMPORTANT INFORMATION ABOUT EXPENDITURES

The legal definition of expenditure includes not just the making of a payment but also “[a] contract, promise or agreement, expressed or implied, whether or not legally enforceable, to make any expenditure.” (21-A M.R.S.A. § 1012(3)(A)(3)) The Commission views this as requiring the reporting of an unpaid obligation as an independent expenditure. The Maine Clean Election Act explicitly requires that “obligations” be considered when determining whether a Maine Clean Election Act candidate is entitled to receive matching funds.

What is an expenditure?

- any obligation to pay for a good or service
- the placement of an order for goods and services
- a promise or agreement (even an implied one) that payment will be made
- the signing of a contract for a good or service
- the delivery of a good or service even if payment has not been made
- the payment for a good or service

When is an expenditure made?

The earliest of the following events:

- the placement of an order for a good or service
- a promise or an agreement to pay
- the signing of a contract for a good or service
- the delivery of a good or service
- the making of a payment for a good or service

HOW DO I REPORT INDEPENDENT EXPENDITURES?

If you or your organization makes an independent expenditure, you must file the attached report with the Commission. The independent expenditure report form is also available on the Commission's website at www.maine.gov/ethics under “Forms and Guides.” The filer must report the date, amount, payee, and purpose of the expenditure, and must allocate the cost among the different candidates affected by the expenditure, indicating whether the expenditure was made in support of or in opposition to each candidate. The Election Law requires the report to contain a notarized statement disclosing whether the expenditure was made in cooperation or consultation with the candidate, so please locate a notary public in advance of the filing deadline.

HOW DO I FILE AN INDEPENDENT EXPENDITURE REPORT?

Independent expenditure reports can be filed in person at the Commission's office during regular business hours (Monday through Friday from 8:00 a.m. to 5:00 p.m.). Filers may also submit the reports anytime by fax to (207) 287-6775, provided that the original report is received by the Commission within five calendar days. If the deadline for an independent expenditure report falls on a weekend or holiday, the report must be filed on that day, usually by fax. On the Saturday and Sunday before an election, the Commission office is open and staffed from 8:00 a.m. to 5:30 p.m. and reports can be filed in person on those days. Otherwise, the report must be faxed to the Commission at (207) 287-6775. Independent expenditure reports cannot be filed electronically on the Commission's website because they must be notarized.

WHAT IF THE COST OF A COMMUNICATION IS LESS THAN \$100 PER CANDIDATE?

If the person making the communication did not spend or obligate more than \$100 per candidate to design, produce, or disseminate the communication, no independent expenditure report is necessary. However, once the aggregated costs for any candidate exceed \$100, a report must be filed for independent expenditures regarding that candidate.

Please note that if an organization uses materials produced by another entity (e.g., a legislative scorecard), the cost of producing that material must be included in the total amount for that communication.

If you have any questions about whether an expenditure for a communication has to be reported as an independent expenditure, please contact the Commission staff at (207) 287-4179 .

5. Exclusions. An independent expenditure does not include:

A. An expenditure made by a person in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's political committee or their agents;

B. A telephone survey that meets generally accepted standards for polling research and that is not conducted for the purpose of changing the voting position of the call recipients or discouraging them from voting;

C. A telephone call naming a clearly identified candidate that identifies an individual's position on a candidate, ballot question or political party for the purpose of encouraging the individual to vote, as long as the call contains no advocacy for or against any candidate; and

D. A voter guide that consists primarily of candidates' responses to surveys and questionnaires and that contains no advocacy for or against any candidate



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INDEPENDENT EXPENDITURE REPORT – HOUSE DISTRICT 24 SPECIAL ELECTION

Name of Person/Committee Making Expenditure(s) _____

Mailing Address _____

City, Zip Code _____ Telephone _____

The requirement to file an independent expenditure report is based on the total or aggregate amount spent per candidate for the election. When the total expenditures per candidate exceeds the threshold amount, a report must be filed by the appropriate deadline.

Please check the appropriate box for the report you are filing and complete the notarized affidavit and attached schedules.

Reports must be filed on weekends and holidays if that is when they are due by faxing the report to the Commission (287-6775). The Commission must receive the signed original report within 5 days after the fax was received.

TOTAL INDEPENDENT EXPENDITURES OVER \$250 PER CANDIDATE

MADE ON OR AFTER SEPTEMBER 9, 2011:

☐ Within 2 Calendar days of exceeding \$250

TOTAL INDEPENDENT EXPENDITURES OVER \$100 BUT NOT MORE THAN \$250 PER CANDIDATE

MADE ON OR BEFORE OCTOBER 25, 2011:

☐ 14-Day Pre-Election Report

Due by 5:00 p.m. on October 25, 2011

TOTAL INDEPENDENT EXPENDITURES OVER \$100 PER CANDIDATE WITHIN 13 DAYS BEFORE THE ELECTION

MADE ON OR AFTER OCTOBER 26, 2011 THROUGH NOVEMBER 7, 2011:

☐ Due Within 1 calendar day of exceeding \$100

I CERTIFY THAT THE INFORMATION IN THIS REPORT IS TRUE, CORRECT AND COMPLETE.

Signature of PAC or Party Treasurer, or
Other Authorized Person Making Expenditure(s)

Date



INDEPENDENT EXPENDITURE REPORT – HOUSE DISTRICT 24 SPECIAL ELECTION

AFFIDAVIT

STATE OF _____

COUNTY OF _____

I, _____, being duly sworn, attest that I made each of the expenditures listed in the attached report independently, and not in cooperation, consultation, or concert with, or at the request or suggestion of, the candidates named in the report or the authorized committees or agents of the candidates.

Signature of Affiant

Sworn to before me, this _____ day of _____ 2011

(Notary Public/Attorney at Law)

My commission expires: _____

Schedule B-IE-1

CANDIDATE(S) SUPPORTED/OPPOSED

- Please list all candidates that were the subjects of independent expenditures.
- If more than one candidate was the subject of the expenditure, allocate the expenditure among the candidates.

Office sought by candidate (including district # or county)	Candidate's name	Indicate whether expenditure was made in support of or in opposition to the candidate	Amount expended this reporting period for each candidate
Total expenditures for all candidates this reporting period. <i>This amount should equal the total independent expenditures listed on Schedule B-IE-2, Line C. ⇒</i>			

Schedule B-IE-2

PAYMENTS AND OBLIGATIONS

- Please indicate the date, payee, expenditure type, and amount of each expenditure.
- If you are reporting an agreement or obligation to make a future payment, please check (✓) the box next to the expenditure type.

Expenditure Types				
LIT	Printing and graphics (flyers, signs, palmcards, etc.)	PRT	Print media ads only (newspapers, magazines)	
MHS	Mail house (all services purchased)	RAD	Radio ads, production costs	
PHO	Phone banks, automated telephone calls	TVN	TV or cable ads, production costs	
POL	Polling and research survey	WEB	Website design, registration, hosting, maintenance, etc.	
POS	Postage for U.S. Mail and mail box fees	OTH	Other (include description)	

Date of expenditure	Payee, address, zip code	Expenditure type	✓	Amount
A. Expenditures for this page ⇒				
B. Total for all other Schedule B-IE-2 pages (if any) ⇒				
C. Total independent expenditures for this reporting period (A+B). <i>This amount should equal the total amount for all candidates listed on Schedule B-IE-1.</i> ⇒				

Schedule B-IE-3

EXPENDITURE DETAILS

- If you file an independent expenditure report after October 31, 2011 for the special election in House District 24, you must provide the following information.

1. The date on which the person making the expenditure placed the order with the vendor for the goods or services	
2. The approximate date when the vendor began providing design or any other services in connection with the expenditure	
3. The date on which the person making the expenditure first learned of the total amount of the expenditure	
4. A statement why the expenditure could not be reported by the eighth day before the election	